

Remarks

This Amendment is in response to the Final Office Action dated **April 21, 2008**, wherein the Office rejected:

claims 1-7, 26-32 and 40 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,735,871 to Sgro (hereafter “Sgro ‘871”);

claims 1-7, 26, 28, 30, 32, and 38-39 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,496,365 to Sgro (hereafter “Sgro ‘365”);

claims 8-11, 13-15 and 34-37 under 35 U.S.C. §103(a) as being obvious over Sgro ‘365 in view of U.S. Patent No. 6,165,178 to Bashiri et al. (hereafter “Bashiri”);

claim 12 under 35 U.S.C. §103(a) as being obvious over Sgro ‘365 in view of Bashiri, as applied to claims 8 and 11, and further in view of U.S. Patent No. 6,699,280 to Camrud et al. (hereafter “Camrud”);

claims 16-19, 44 and 45 over Sgro ‘365 in view of Bashiri, as applied to claim 15, and further in view of U.S. Patent No. 5,702,418 to Ravenscroft (hereafter “Ravenscroft”); and

claims 20-24 and 33 under 35 U.S.C. §103(a) as being obvious over Sgro ‘365 in view of U.S. Patent No. 6,355,058 to Pacetti et al (hereafter “Pacetti”).

Applicants have amended claims 1, 3, 23, 29, 30, 36, and 41 – 43, and canceled claims 2, 4 – 7, 31, 32, 38, and 39. Applicants reserve the right to prosecute the subject matter of claims 2, 4 – 7, 31, 32, 38, and 39 in any subsequent applications.

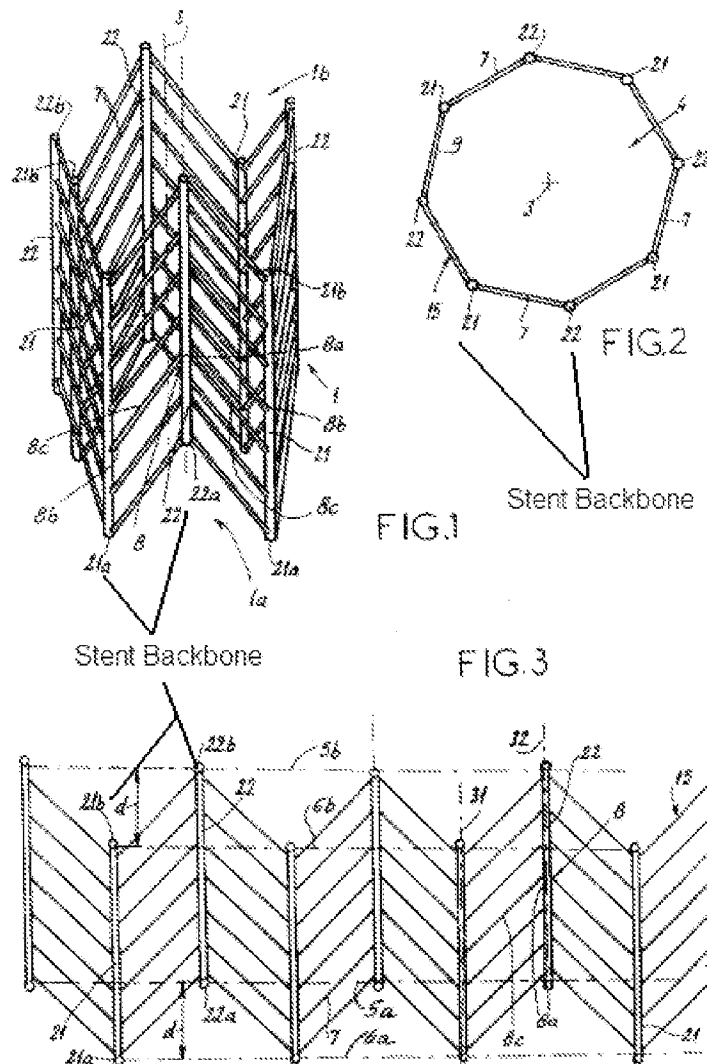
The following comments are presented in the same order and with headings and paragraph numbers corresponding to those set forth in the Office Action.

Claim Rejections – 35 U.S.C. § 102

3. Claims 1-7, 26-32 and 40 stand rejected under 35 U.S.C. §102(b) as being anticipated by Sgro ‘871.

Sgro ‘871 fails to teach or suggest all the elements of amended claim 1. Amended claim 1 includes the following: “a single stent backbone which extends from the proximal end of the stent to the distal end of the stent, the stent backbone being oriented in a direction which is substantially parallel to a longitudinal axis of the stent, the stent backbone being a single strut.”

The Office's definition of a "stent backbone" is illustrated in the following annotated figures of Sgro '871 by the entire region of the endoprosthesis shown between the added lead lines.



In response to Applicants' arguments, the Office asserted that "[t]he application does not...explicitly define that the term backbone can only refer to a single longitudinal member." The specification states the following:

In the embodiment shown in FIGS. 1-11 the stent 40 comprises **a backbone** 45 and a plurality of first and second stent members or struts 46 and 48. (page 7, lines 21 – 22)(Emphasis added).

In some embodiments the stent comprises a second backbone 47. (page 8, lines 28 – 29).

Backbones 45 and 47 **may each be comprised of a single longitudinally oriented strut** having a greater thickness than the thickness of the first or second members 46 and 48. (page 8, lines 30 – 32)(Emphasis added).

Based on the above, Applicants assert that the specification indicates that an embodiment of a stent assembly may have a single backbone that is a single longitudinally oriented strut, contrary to the Office's assertion.

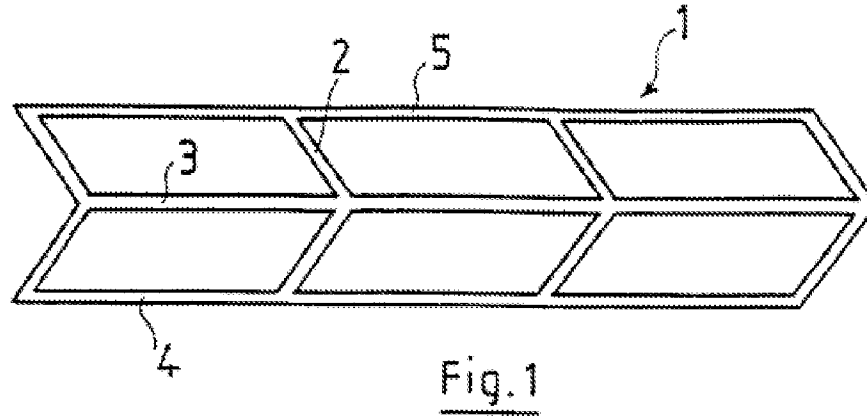
Although Applicants disagree with the Office's contention that Sgro '870 includes a backbone for at least the reasons presented in the previous Response filed February 14, 2008, to further prosecution Applicants have amended claim 1, as presented above, to explicitly recite "a single stent backbone which extends from the proximal end of the stent to the distal end of the stent, the stent backbone being oriented in a direction which is substantially parallel to a longitudinal axis of the stent, the stent backbone being a single strut." To that end, Applicants assert that Sgro '871 does not anticipate amended claim 1 and request that the rejection be withdrawn.

4. - 9. Instant claim 1 is an independent claim. Claims 3, 26-30, and 40 depend directly or indirectly from claim 1. For at least the reasons stated above in regards to claim 1, the rejections of claims 3, 26-30, and 40 are respectfully overcome. Applicants have canceled claims 2, 4 – 7, and 31 – 32, thereby mooting the rejection to same.

10. Claims 1-7, 26, 28, 30, 32, and 38-39 stand rejected under 35 U.S.C. §102(b) as being anticipated by Sgro '365.

Sgro '365 fails to teach or suggest all the elements of amended claim 1. Amended claim 1 includes the following: "a single stent backbone which extends from the proximal end of the stent to the distal end of the stent, the stent backbone being oriented in a direction which is substantially parallel to a longitudinal axis of the stent, the stent backbone being a single strut."

The definition of the "stent backbone" that the Office imposes upon Sgro '871 includes ***multiple longitudinal ribs*** (adjacent elements 3 and 4 as shown below):



Although Applicants disagree with the Office's characterization that Sgro '365 includes a backbone for at least the reasons presented in the previous Response filed February 14, 2008, to further prosecution Applicants have amended claim 1 as presented above to explicitly recite "a single stent backbone which extends from the proximal end of the stent to the distal end of the stent, the stent backbone being oriented in a direction which is substantially parallel to a longitudinal axis of the stent, the stent backbone being a single strut." To that end, Applicants assert that Sgro '365 does not anticipate amended claim 1 and request that the rejection be withdrawn.

11. - 16. Instant claim 1 is an independent claim. Claims 3, 26, 28, 30, 38 and 39 depend directly or indirectly from claim 1. For at least the reasons stated above in regards to claim 1, the rejections to the dependent claims 3, 26, 28, 30, 38 and 39 are respectfully overcome. Applicants have canceled claims 2, 4 - 7, and 32, thereby mooted the rejection to same.

Claim Rejections – 35 U.S.C. § 102

18. - 21. Claims 8-11, 13-15, and 34-37 stand rejected under 35 U.S.C. §103(a) as being obvious over Sgro '365 in view of Bashiri. Specifically, the Office asserted that it would have been obvious to add the wire of Bashiri to the teachings of Sgro '365 in order to provide a hybrid device supposedly having all of the elements described in the instant claims.

Claims 8-11, 13-15, and 34-37 incorporate all the subject matter of claim 1 and

add additional subject matter. Accordingly, claims 8-11, 13-15, and 34-37 are believed to be allowable over Sgro '365. The addition of any alleged teachings in Bashiri does not remedy the deficiencies of Sgro '365. Therefore, claims 8-11, 13-15, and 34-37 are non-obvious over the purported combination of Sgro '365 and Bashiri. Applicants respectfully request that the rejections be withdrawn and claims 8-11, 13-15, and 34-37 be allowed.

22. Claim 12 stands rejected under 35 U.S.C. §103(a) as being obvious over Sgro '365 in view of Bashiri, as applied to claims 8 and 11, and further in view of Camrud. Specifically, the Office asserted that it would be obvious to add the wire of Bashiri to the teachings of Sgro '365 and that it would also be obvious to further modify the Sgro '365/Bashiri combination by providing the junction between the stent and push wire with a bioabsorbable connection as described in Camrud.

Claim 12 incorporates all the subject matter of claim 1 and adds additional subject matter. Accordingly, claim 12 is believed to be allowable over Sgro '365. The addition of any alleged teachings in Bashiri and Camrud does not remedy the deficiencies of Sgro '365. Therefore, claim 12 is non-obvious over the purported combination of Sgro '365, Bashiri, and Camrud. Applicants respectfully request that the rejection be withdrawn and claim 12 be allowed.

24. - 27. Claims 16-19, 44 and 45 stand rejected over Sgro '365 in view of Bashiri, as applied to claim 15, and further in view of Ravenscroft. Specifically, the Office asserted that it would have been obvious to further modify the Sgro '365/Bashiri combination by providing it with the capability of a stent delivery system wherein the stent can transition from a deployed configuration to a predeployed configuration, as described in Ravenscroft.

Claims 16-19, 44 and 45 incorporate all the subject matter of claim 1 and add additional subject matter. Accordingly, claims 16-19, 44 and 45 are believed to be allowable over Sgro '365. The addition of any alleged teachings in Bashiri and Ravenscroft does not remedy the deficiencies of Sgro '365. Therefore, claims 16-19, 44 and 45 are non-obvious over the purported combination of Sgro '365, Bashiri, and Ravenscroft. Applicants respectfully request that the rejections be withdrawn and claims 16-19, 44 and 45 be allowed.

28. - 29. Claims 20-24 and 33 stand rejected under 35 U.S.C. §103(a) as being

obvious over Sgro '365 in view of Pacetti. Specifically, the Office asserted that it would have been obvious to construct the Sgro '365 endoprosthesis from nitinol wire as described in Pacetti in order to provide for a hybrid device supposedly having all of the elements of the instant claims.

Claims 20-24 and 33 incorporate all the subject matter of claim 1 and add additional subject matter. Accordingly, claims 20-24 and 33 are believed to be allowable over Sgro '365. The addition of any alleged teachings in Pacetti does not remedy the deficiencies of Sgro '365. Therefore, claims 20-24 and 33 are non-obvious over the purported combination of Sgro '365 and Pacetti. Applicants respectfully request that the rejections be withdrawn and claims 20-24 and 33 be allowed.

Conclusion

Applicants respectfully request that the Amendment be entered as Applicants believe it places the application in condition for allowance or better form for appeal. Based at least the foregoing amendments and remarks, Applicants respectfully submit this application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-24, 26-40, 44, and 45 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: June 19, 2008

By: / James L. Shands /
James L. Shands
Registration No.: 54439

6640 Shady Oak Dr., Suite 400
Eden Prairie, MN 55344-7834
Telephone: (952) 563-3000
Facsimile: (952) 563-3001

f:\wpwork\jls\11058us02_and_20080513.doc